

Assembly Bill No. 3035

CHAPTER 291

An act to add Sections 1452, 1453, 1454, 1455, 1456, and 1457 to, and to repeal and add Sections 1450 and 1451 of, the Military and Veterans Code, relating to veterans' cemeteries.

[Approved by Governor September 15, 2006. Filed with
Secretary of State September 15, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3035, Laird. California Central Coast State Veterans' Cemetery.

(1) Existing law provides for the establishment and operation of veterans' cemeteries. Existing law requires the Department of Veterans Affairs, in voluntary cooperation with the Monterey County Board of Supervisors, to develop a master plan for a state-owned and state-operated California Central Coast Veterans' Cemetery to be located on the grounds of the former Fort Ord in Monterey County.

This bill would repeal that provision and instead provide for the establishment of the California Central Coast State Veterans' Cemetery at Fort Ord Endowment Fund, as provided, and would require that all moneys deposited therein be allocated, upon appropriation by the Legislature, to the Department of Veterans Affairs for the annual administrative and oversight costs of a California Central Coast State Veterans' Cemetery at Fort Ord and to generate funding through interest for that cemetery. This bill would also require the Controller, on or before July 1, 2007, after consultation with the department, to report to the Assembly and Senate Committees on Veterans Affairs, and other specified entities, on the status of the fund, as provided.

This bill would allow the California Central Coast State Veterans' Cemetery at Fort Ord Endowment Fund to receive donations of personal property, including cash or other gifts, to be used for the maintenance or beautification of the veterans' cemetery, upon appropriation by the Legislature, as provided.

This bill would additionally require the department, once a determination has been made by specified parties that the fund can cover the annual administrative and oversight costs, as defined, of the veterans' cemetery, to develop and submit a federal State Veterans' Cemetery Grant Program application to the United States Department of Veterans Affairs for an amount representing 100% of the estimated cost for designing, developing, constructing, and equipping the veterans' cemetery. This bill would authorize the Secretary of Veterans Affairs to act as the official representative of the state for purposes of the application process, as specified.

(2) Existing law establishes the Central Coast Veterans' Cemetery Master Development Fund.

This bill would rename the fund the California Central Coast State Veterans' Cemetery at Fort Ord Operations Fund, and would require that all moneys in the fund be allocated, upon appropriation by the Legislature, to the Department of Veterans Affairs for the annual administrative and oversight costs of the veterans' cemetery. This bill also would authorize the Endowment Fund to be reimbursed for the costs of developing and submitting the State Veterans' Cemetery Grant Program application.

(3) Existing law provides for the burial of veterans and veterans' widows and widowers, and the veterans' children, and establishes fees for the interment of specified individuals.

This bill would require the Department of Veterans Affairs to adopt regulations to specify the eligibility requirements for interment in the California Central Coast State Veterans' Cemetery at Fort Ord, including providing for the imposition of specified fees.

(4) Existing law provides for proposals for the construction, placement, or donation of monuments and memorials to specified veterans' cemeteries, subject to review by advisory committees and approval of the Secretary of Veterans Affairs.

This bill would allow the California Central Coast State Veterans' Cemetery at Fort Ord, once established, to receive proposals for the construction, placement, or donation of monuments and memorials to the cemetery, subject to review by an advisory committee and approval of the Secretary of Veterans Affairs, as provided. This bill would require the Department of Veterans Affairs to establish regulations regarding these proposals.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) In 1917, the United States Military established Fort Ord as a cavalry post when it purchased 15,000 acres of land in the northwestern portion of Monterey County.

(b) Fort Ord was declared a permanent Army post in 1940, and became a valued military training facility as its geography and proximity to the coast proved useful in helping to prepare the United States military for its involvement in World War II. Throughout its history, Fort Ord post was home to a succession of infantry divisions and served as a center for basic and advanced training.

(c) Since its inception, Fort Ord became an integral part of the Monterey Bay area's local and regional economy and contributed greatly to its cultural identity. In 1991, however, Fort Ord was announced for closure by the United States Base Realignment and Closure Commission. Due to its prominence in the Monterey Bay area, the scheduled closure had a significant impact on the Monterey Bay area.

(d) Prior to its closure on September 30, 1994, the Legislature established the Fort Ord Reuse Authority (FORA) to facilitate Fort Ord's conversion from military to civilian use. As a part of the Monterey Bay area's efforts to honor the lasting impact of Fort Ord and the legacy of the men and women who served there, FORA set aside 204 acres for the development of a Central Coast Veterans' Cemetery at Fort Ord.

(e) Since 1994, local and statewide veterans, community groups, local agencies, and elected officials attempted to get the United States Department of Veterans Affairs to develop a Central Coast Veterans' Cemetery at Fort Ord. Current federal regulations, however, preclude the development of a national veterans' cemetery within 75 miles of another national veterans' cemetery, and require that there be at least 170,000 veterans within that area. Since the former Fort Ord is within 75 miles of the San Joaquin Valley National Cemetery in Gustine, and the veterans' population of the Monterey Bay region is currently estimated to be approximately 120,000, a national veterans' cemetery at Fort Ord is not possible.

(f) A viable alternative to a national cemetery for veterans in the Fort Ord area would be the establishment of a state veterans' cemetery. Under the federal Veterans Affairs State Cemetery Grants Program, the federal government will fund up to 100 percent of the cost of establishing, expanding, or improving state veterans' cemeteries, including the acquisition of initial operating equipment, if the state agrees to cover the administrative and oversight costs in perpetuity.

(g) In 2000, the state began efforts to consider the creation of a state Central Coast Veterans' Cemetery at Fort Ord when, then, Governor Davis signed Senate Bill 1815, which required the Department of Veterans Affairs, in coordination with Monterey County, to develop a master plan for a state Central Coast Veterans' Cemetery at Fort Ord.

(h) Subsequent legislative efforts to use the master development plan to apply to the State Cemetery Grants Program have not been successful due to the ongoing administrative and oversight fiscal impact a state veterans' cemetery at Fort Ord would have on the state's General Fund.

(i) Recognizing that a national veterans' cemetery at Fort Ord has proven to be difficult under current federal regulations, the possibility of creating a state-operated veterans' cemetery at Fort Ord is enhanced if it does not present an ongoing cost impact to the state.

(j) In order to recognize the lasting impact and legacy of the former Fort Ord and the service men and women who served there, establishing a financing mechanism, independent of the state's General Fund, to fund the ongoing administrative and oversight costs of a state veterans' cemetery would greatly increase the ability for the Department of Veterans Affairs to apply to the federal Veterans Affairs State Cemetery Grants Program.

SEC. 2. Section 1450 of the Military and Veterans Code is repealed.

SEC. 3. Section 1450 is added to the Military and Veterans Code, to read:

1450. For purposes of this chapter, the following definitions apply:

(a) “Administrative and oversight costs” means costs incurred by the department for the maintenance of the California Central Coast State Veterans’ Cemetery at Fort Ord including, but not limited to, personnel costs, the opening and closing of graves, the interment of remains, committal service coordination, groundskeeping, landscaping, general maintenance, and janitorial services.

(b) “Department” means the Department of Veterans Affairs.

(c) “Endowment Fund” means the California Central Coast State Veterans’ Cemetery at Fort Ord Endowment Fund.

(d) “Operations Fund” means the California Central Coast State Veterans’ Cemetery at Fort Ord Operations Fund.

(e) “Veterans’ cemetery” means the California Central Coast State Veterans’ Cemetery at Fort Ord.

SEC. 4. Section 1451 of the Military and Veterans Code is repealed.

SEC. 5. Section 1451 is added to the Military and Veterans Code, to read:

1451. (a) The California Central Coast State Veterans’ Cemetery at Fort Ord Endowment Fund is hereby created in the State Treasury. Moneys in the Endowment Fund shall be allocated, upon appropriation by the Legislature, to the department for the annual administrative and oversight costs of the veterans’ cemetery, pursuant to Sections 1453 and 1454, and to generate funding through interest for that cemetery.

(b) (1) Moneys in the fund shall first be invested with the goal of achieving capital appreciation to create a balance sufficient to generate ongoing earnings to cover the estimated annual oversight and maintenance costs associated with the veterans’ cemetery pursuant to Section 1453.

(2) Upon the determination of the Controller that the Endowment Fund balance has attained the goal established in paragraph (1), moneys in the fund shall be invested to generate earnings to fund annual oversight and maintenance costs associated with the veterans’ cemetery.

(c) The Endowment Fund may consist of donations from public and private entities, partnerships between public and private entities, fees, and transfers from the state General Fund as may be specified by law.

(d) To the extent possible, donations made in-kind to the Endowment Fund shall be monetized so as to offset the ongoing administrative and oversight costs under Sections 1452 and 1453.

(e) Earnings generated by the Endowment Fund shall be retained by the fund.

(f) Moneys deposited in the Endowment Fund are exempt from the requirements of Sections 11270 through 11277 of the Government Code.

(g) Moneys in the Endowment Fund shall be invested by the Treasurer, after consultation with the department, in a manner that best meets the goals of the fund.

SEC. 6. Section 1452 is added to the Military and Veterans Code, to read:

1452. (a) On or before July 1, 2007, and annually thereafter, the Controller, after consultation with the department, shall report to the

Assembly and Senate Committees on Veterans Affairs, Monterey County, the City of Seaside, and the Fort Ord Reuse Authority on the status of the Endowment Fund, the amount of interest and investment earnings generated by the Endowment Fund, and the estimated amount of additional principal needed to generate annual interest revenue that will sufficiently cover the estimated annual administrative and oversight costs.

(b) The estimated annual administrative and oversight costs shall be developed annually by the department and provided to the Controller for purposes of the report required by subdivision (a) by no later than June 15 of each year.

SEC. 7. Section 1453 is added to the Military and Veterans Code, to read:

1453. (a) (1) Upon the determination of the Controller, after consultation with the Secretary of Veterans Affairs, that the Endowment Fund has adequate principal to annually yield sufficient investment earnings, from the date of the determination, to cover the annual administrative and oversight costs over the next 10 years and to fund the estimated costs of developing and submitting the State Veterans' Cemetery Grant Program application, the department shall develop and submit a State Veterans' Cemetery Grant Program application to the United States Department of Veterans Affairs for the establishment of a veterans' cemetery.

(2) The Controller, upon appropriation by the Legislature, shall transfer moneys from the Endowment Fund to the Operations Fund in an amount equal to the estimated costs of developing and submitting the State Veterans' Cemetery Grant Program application to the United States Department of Veterans Affairs.

(b) The Secretary of Veterans Affairs shall submit the State Veterans' Grant Program application to the United States Department of Veterans Affairs within six months of the Controller's determination pursuant to subdivision (a). The Secretary of Veterans Affairs is authorized to act as the official representative of the state in connection with the State Veterans' Cemetery Grant Program application, including providing the United States Department of Veterans Affairs throughout the application process with all necessary assurances that additional information shall be provided when required. The Secretary of Veterans Affairs shall have final approval of all aspects of the cemetery design and operation.

(c) If awarded, the moneys received from the State Veterans' Cemetery Grant Program shall be used to reimburse the Endowment Fund for the costs of developing and submitting the State Veterans' Cemetery Grant Program application to the United States Department of Veterans Affairs and to fund 100 percent of the design, development, construction, and equipping of the veterans' cemetery.

SEC. 8. Section 1454 is added to the Military and Veterans Code, to read:

1454. (a) The Central Coast Veterans' Cemetery Master Development Fund is hereby renamed the California Central Coast State Veterans'

Cemetery at Fort Ord Operations Fund. Moneys in the Operations Fund may be transferred, upon appropriation by the Legislature, from the Endowment Fund to the Operations Fund for expenditure by the department, solely for the annual administrative and oversight costs of the veterans' cemetery.

(b) (1) The Controller shall reserve an amount, not to exceed 20 percent of the amount allocated pursuant to subdivision (a), in the Operations Fund, which shall be used solely as a reserve for unforeseen administrative and oversight costs.

(2) For purposes of this subdivision, "unforeseen administrative and oversight costs" means any costs that could not have been reasonably anticipated by the department when preparing its estimate of annual administrative and oversight costs and that are needed to carry out the purposes of this chapter.

SEC. 9. Section 1455 is added to the Military and Veterans Code, to read:

1455. (a) Subsequent to the department's submission of the State Veterans' Cemetery Grant Program application, pursuant to Section 1453, the department shall adopt regulations to specify the eligibility requirements for interment and the appropriate fees to be charged for interment or burial of spouses and children of honorably discharged veterans in the veterans' cemetery.

(b) Those eligible for interment are all honorably discharged veterans and their spouses and children.

(c) All fees received pursuant to subdivision (a) shall be deposited in the Endowment Fund created pursuant to Section 1451.

SEC. 10. Section 1456 is added to the Military and Veterans Code, to read:

1456. (a) Proposals for the construction, placement, or donation of monuments and memorials, excluding headstones, to the veterans' cemetery shall be subject to review by an advisory committee comprised of the veterans' cemetery administrator, representatives from Monterey County, representatives from the City of Seaside, local veterans' service organizations, and others, as approved by the Secretary of Veterans Affairs.

(b) All proposals for the construction, placement, or donation of monuments and memorials to the veterans' cemetery shall be subject to the approval of the Secretary of Veterans Affairs.

(c) The department shall adopt regulations for the policies and procedures to be followed with respect to the design, placement, and approval of monuments and memorials proposed to be placed on veterans' cemetery grounds.

SEC. 11. Section 1457 is added to the Military and Veterans Code, to read:

1457. (a) Notwithstanding Section 11005 of the Government Code, the veterans' cemetery administrator may, subject to the approval of the Secretary of Veterans Affairs, accept donations of personal property,

including cash or other gifts, to be used for the maintenance or beautification of the veterans' cemetery.

(b) Donations in the form of cash shall be deposited in the Endowment Fund and shall be expended for the maintenance and repair of the veterans' cemetery or for a specified veterans' cemetery maintenance or beautification project designated by the donor, upon appropriation by the Legislature.